

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-28, all of which have been rejected. By this Amendment, claims 1-28 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. New claims 29-64 have been added. The Applicant respectfully submits that the claims define patentable subject matter.

Claims 1-6, 8, 10-14, 17-18, 20-21, and 25-26 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2004/0139180, issued to White, et al. (hereinafter, White). Claims 7, 9, 15-16, 19, 22-24, and 27-28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over White as applied to claims 1-6, 8, 10-14, 17-18, 20-21, and 25-26 above, and further in view of U.S. Patent No. 6,845,398, issued to Galensky, et al. (hereinafter, Galensky). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

### **REJECTION UNDER 35 U.S.C. § 103**

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 ("MPEP") states the following:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection

under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Further, MPEP § 2143.01 states that "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007)). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

**I. White Does Not Render Claims 1-6, 8, 10-14, 17-18, 20-21, and 25-26 Unpatentable**

The Applicant first turns to the rejection of claims 1-6, 8, 10-14, 17-18, 20-21, and 25-26 as being unpatentable over White.

**A. Independent Claims 1 and 20**

With regard to the rejection of independent claim 1 under 103(a), the Applicant submits that White does not disclose or suggest at least the limitation of “client capable of accessing and downloading the media files by wirelessly communicating with the server via the station from a plurality of remote locations from the station and the server, wherein the media files are accessed and downloaded by the client based on a particular location of the client,” as recited by the Applicant in independent claim 1. The Office Action states the following:

With regard to claim 1, White discloses a system for wirelessly playing media files, the system comprising:

a central server having a memory for storing the media files (White: Figure 2, 110);

a station connected to the central server (White: Figure 2, 120);

at least one client, the client capable of accessing and downloading the files by wirelessly communicating with the server via the station from a plurality of remote locations from the station and the server (White: Figure 2, 130 and Paragraph [0014]. The mobile media server (130) is capable of accessing and downloading the files through the wireless hub anywhere within range of the wireless hub. As the mobile media server can be anywhere within range of the hub, this constitutes a plurality of locations.).

See Office Action at pages 2-3. Referring to FIG. 2 of White, the Office Action equates Applicant's “client” to White's mobile media server 130. White further discloses that the mobile media server 130 can access and download files through the wireless hub 120 as long as the mobile media server 130 is within range of the wireless hub 120. Even though White discloses that the mobile media server 130 can access and

download files through the wireless hub 120, White does not disclose or suggest that the media files within the home media server 110 are accessed and downloaded based on a particular location of the mobile media server 130.

Therefore, the Applicant maintains that White does not disclose or suggest at least the limitation of "client capable of accessing and downloading the media files by wirelessly communicating with the server via the station from a plurality of remote locations from the station and the server, wherein the media files are accessed and downloaded by the client based on a particular location of the client," as recited by the Applicant in independent claim 1.

The Applicant submits that claim 1 is allowable. Independent claim 20 is similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claim 20 is also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2-6, 8, 10-14, 17-18, 21, and 25-26**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1 and 20 under 35 U.S.C. § 103(a) as being unpatentable over White has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-6, 8, 10-14, 17-18, 21, and 25-26 depend from independent claims 1 and 20, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 2-6, 8, 10-14, 17-18, 21, and 25-26.

**II. The Proposed Combination of White and Galensky Does Not Render Claims 7, 9, 15-16, 19, 22-24, and 27-28 Unpatentable**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1 and 20 under 35 U.S.C. § 103(a) as being unpatentable over White has been overcome and requests that the rejection be withdrawn. Additionally, since the additional cited reference (Galensky) does not overcome the deficiencies of White, claims 7, 9, 15-16, 19, 22-24, and 27-28 depend from independent claims 1 and 20, respectively, and are, consequently, also respectfully submitted to be allowable at least for the reasons stated above with regard to allowability of claim 1. The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 7, 9, 15-16, 19, 22-24, and 27-28.

**III. New Claims 29-64**

The Applicant has added new claims 29-38, which depend on independent claim 1. Support for the new dependent claims may be found in, for example, ¶¶ 0032-0048 and FIG. 3 of the present application. The Applicant submits that no new matter has been introduced by the new claims 29-38. Additionally, the Applicant has added new claims 39-54, which are similar in many respects to claims 1-19, and new claims 55-64,

which are similar in many respects to new claims 29-38. The Applicant submits that new claims 29-64 are allowable for at least the same reasons discussed above.

In general, the Office Action makes various statements regarding claims 1-28 and the cited reference that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

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**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-64 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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